

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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TIMOTHY MORGAN, Individually and On Behalf of)	
All Others Similarly Situated,)	
)	Civil Docket for Case No.:
Plaintiff,)	1:03-CV-12529-JLT
)	
v.)	
)	
NETWORK ENGINES, INC., JOHN CURTIS,)	Hon. Joseph L. Tauro
DOUGLAS G. BRYANT and LAWRENCE A.)	
GENOVESI,)	
)	
Defendants.)	
_____	x	

(Additional captions on following page)

**MEMORANDUM OF LAW IN RESPONSE TO THE COMPETING
LEAD PLAINTIFF MOTIONS AND IN FURTHER SUPPORT OF THE
MOTION OF THE O'NEIL GROUP FOR APPOINTMENT AS LEAD PLAINTIFF
AND FOR APPROVAL OF SELECTION OF LEAD COUNSEL**

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GORDON A. PRICE, On Behalf of Himself and)	
All Others Similarly Situated,)	
)	Civil Docket for Case No.:
Plaintiff,)	1:04-CV-10008-MLW
)	
v.)	
)	
NETWORK ENGINES, INC., JOHN CURTIS,)	Hon. Mark L. Wolf
DOUGLAS G. BRYANT and LAWRENCE A.)	
GENOVESI,)	
)	
Defendants.)	

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EDWIN POWELL MILLER, Individually and On Behalf)	
of All Others Similarly Situated,)	
)	Civil Docket for Case No.:
Plaintiff,)	1:04-CV-10022-JLT
)	
v.)	
)	
NETWORK ENGINES, INC., JOHN CURTIS,)	Hon. Joseph L. Tauro
DOUGLAS G. BRYANT and LAWRENCE A.)	
GENOVESI,)	
)	
Defendants.)	

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DAVID DUBROW, Individually and On Behalf of)	
All Others Similarly Situated,)	
)	Civil Docket for Case No.:
Plaintiff,)	1:04-CV-10096-JLT
)	
v.)	
)	
NETWORK ENGINES, INC., JOHN CURTIS,)	Hon. Joseph L. Tauro
DOUGLAS G. BRYANT and LAWRENCE A.)	
GENOVESI,)	
)	
Defendants.)	

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KEVIN DENHA, Individually and On Behalf of
All Others Similarly Situated,

Plaintiff,

V.

NETWORK ENGINES, INC., JOHN CURTIS,
DOUGLAS G. BRYANT and LAWRENCE A.
GENOVESI,

Defendants.

x
)
)
) Civil Docket for Case No.:
) 1:04-CV-10228-JLT
)
)
)
) Hon. Joseph L. Tauro
)
)
)
)

WING KAM YU, On Behalf of Himself and
All Others Similarly Situated,

Plaintiff,

V.

NETWORK ENGINES, INC., JOHN CURTIS,
DOUGLAS G. BRYANT and LAWRENCE A.
GENOVESI,

Defendants.

x
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)
) Civil Docket for Case No.:
) 1:04-CV-10238-DPW
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)
) Hon. Douglas P. Woodlock
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The O'Neil Group respectfully submits this memorandum in further support of its motion for appointment as Lead Plaintiff and approval of its selection of lead counsel.

On February 17, 2004, three applications for appointment of Lead Plaintiff and Lead Counsel were made before this Court by movants comprising the Guerrero Group, the O'Neil Group and movants Wing Kam Yu, Blake Kunkel and Thomas Cunningham (the "Yu Group"). The O'Neil Group recognizes that the Guerrero Group appears to have the largest financial interest in this litigation with alleged losses of \$152,899, as compared with the other movants. Under the PSLRA, this would make them the presumptive lead plaintiff. However, should the Court decline to grant the Guerrero Group's motion, the O'Neil Group respectfully requests that its motion be granted as the losses alleged by it exceed those alleged by the Yu Group.

Accordingly, it is respectfully submitted that, if the Court declines to appoint the Guerrero Group as lead plaintiff, the motion by the O'Neil Group should be granted in full.

Dated: March 2, 2004

Respectfully submitted,

SHAPIRO HABER & URMY LLP

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